



MATERNAL EMERGENCY: A STUDY OF HUMAN RIGHTS IN A NATIONAL LAW PERSPECTIVE

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Abstract: A maternal emergency is a condition that threatens the life of pregnant women, both in the process of pregnancy, childbirth, and postpartum. Notes from the National Population and Family Planning Board (BKKBN) that in 2019 there were approximately 4,100 cases of maternal mortality, while in 2020, there were approximately 4,400 cases. These conditions must be minimized to guarantee human rights for mothers. Meanwhile, as a constitutional state characterized by the protection and recognition of human rights, Indonesia has special regulations regarding human rights in the form of Law Number 39 of 1999. Based on these facts, a problem is formulated: protecting human rights against maternal emergencies in Law Number 39 of 1999. The type of research used is normative juridical. The data used is secondary data. The data analysis used is qualitative. The results of the discussion of this article, namely, the protection of human rights against maternal emergencies, is defined as a protection of human rights for mothers who have the potential to experience death during pregnancy, childbirth, and postpartum. The protection is regulated in Article 4, 9 paragraph (1), 41 paragraph (2), and 49 paragraph (2) of Law Number 39 of 1999. In this case, the article is divided into two classifications. First, Article 4 and Article 9 paragraph (1) concerning the right to life. Second, Article 41 paragraph (2) and 49 paragraph (2) concerning women's health rights.

Keywords: Human rights; Emergency; Maternal.

Abstrak: Kegawatdaruratan maternal adalah suatu kondisi yang mengakibatkan terancamnya nyawa pada ibu hamil baik itu dalam proses kehamilan, persalinan, maupun nifas. Catatan dari Badan Kependudukan dan Keluarga Berencana (BKKBN) bahwa pada tahun 2019 terdapat kurang lebih 4.100 kasus kematian ibu melahirkan, sedangkan pada tahun 2020 tercatat kurang lebih 4.400 kasus. Kondisi tersebut harus diminimalisir sebagai upaya untuk menjamin hak asasi manusia bagi maternal. Sementara itu, Indonesia sebagai negara hukum yang dicirikan dengan perlindungan dan pengakuan hak asasi manusia memiliki peraturan khusus mengenai HAM dalam bentuk Undang-Undang Nomor 39 Tahun 1999. Berdasarkan fakta tersebut, dirumuskan permasalahan, yaitu bagaimana perlindungan hak asasi manusia terhadap kegawatdaruratan maternal ditinjau dari Undang-Undang Nomor 39 tahun 1999. Adapun jenis penelitian yang digunakan adalah yuridis normatif, data yang dipergunakan adalah data sekunder. Analisis data yang digunakan adalah kualitatif. Adapun hasil pembahasan dari artikel ini, yaitu perlindungan hak asasi manusia terhadap kegawatdaruratan maternal diartikan sebagai suatu perlindungan HAM bagi maternal yang berpotensi mengalami kematian pada proses kehamilan, persalinan, maupun nifas. Perlindungan tersebut diatur dalam Pasal 4, 9 ayat (1), 41 ayat (2), dan 49 ayat (2) Undang-Undang Nomor 39 tahun 1999. Dalam hal ini, pasal tersebut terbagi dalam dua klasifikasi. Pertama, Pasal 4 dan Pasal 9 ayat (1) tentang hak hidup. Kedua, Pasal 41 ayat (2) dan 49 ayat (2) tentang hak kesehatan wanita.

Kata Kunci: Hak Asasi Manusia; Kegawatdaruratan; Maternal.

A. Introduction

A maternal emergency is a life-threatening medical condition that occurs in pregnant, maternity, and postpartum women. (Martilasari et al., 2020) This situation, for example, occurs due to bleeding, high blood pressure, and premature rupture of membranes. If these conditions are not handled properly, it will result in the death of the mother and fetus. Maternal emergencies can be prevented by antenatal care, namely prevention efforts in obcentric health care programs for optimizing maternal and neonatal outcomes through routine monitoring activities during pregnancy. (Suparni et al., 2015)

The basis for preventing maternal emergencies is to reduce the maternal mortality rate, increasing every year. Head of the National Population and Family Planning Board (BKKBN), Eni Gustiana, said that in 2019 there were approximately 4,100 cases of maternal mortality, and in 2020, there were approximately 4,400 cases. (Vidya Pinandhita, 2021) The maternal mortality rate must be reduced because it will have a broad impact on various fields of life. Maternal mortality indicators can reflect the welfare and health of the people in a country. Mother is the main factor in printing the next generation of leadership in a nation. A smart generation born from healthy mothers. So that it is necessary to protect and guarantee maternal health. This protection is an effort to reduce the mortality rate so that mothers can give birth to the next generation of the nation's hope. (Budiantara Nuraziza et al., 2014)

Protection, as described, is part of human rights. Human rights itself is defined as a right inherent in a person, given by God, that cannot be revoked or divided, and the violation of this right results in the loss of dignity as a human being. (Pangaribuan, 2017) In this regard, Indonesia as a state of the law commits to pay more attention to human rights for its citizens. Article 1 of the 1945 Constitution of the Republic of Indonesia affirms that Indonesia is a state of law. Meanwhile, the characteristics of the rule of law are guarantees for human rights. (Safudin, 2015)

An emergency is a serious condition, and one must get help immediately. An emergency in midwifery is an emergency that occurs in pregnant, giving birth or postpartum women. (Maryunani, 2016) While maternal is defined as something related to the mother or the quality of being a mother. (Escobar et al., 2020) In other words, maternal can be interpreted as pregnant women. A maternal emergency is a serious condition; it must get immediate help because it can threaten the life of pregnant women either during pregnancy, childbirth, or postpartum.

In this case, some factors play a role in influencing pregnancy, childbirth, or postpartum. These factors include maternal health status (maternal health), reproductive status (reproductive health), or access to health services. Reproductive health is defined as the ability to reproduce and regulate fertility, to have a safe pregnancy and delivery, and to have a healthy baby without risking harm to oneself and the baby. Maternal health includes all efforts to improve health that aim to avoid death due to pregnancy and childbirth and improve the quality of life during and after the reproductive period. Reproductive health and maternal health are interrelated in preventing maternal and infant mortality. (Hapsari et al., 2016) In essence, maternal emergencies can be prevented by paying attention to the quality of maternal health and women's reproductive health.

Maternal health is included in human rights. Human rights can be interpreted as a right inherent in humans which is natural and fundamental as a gift from God that must be respected, guarded, and protected by the state. The essence of human rights is

an effort to maintain the safety of human existence as a whole through balancing actions, namely the balance between individual interests and public interests. Likewise, efforts to respect, protect, and uphold human rights are shared obligations and responsibilities between individuals, the government, and the state. (Yasin, 2015)

Talking about Human Rights, Marjono Reksodiputro stated that “*Human rights are rights that are so inherent in human nature, that without them we have no dignity as human beings (inherent dignity). Therefore, these rights must not be violated or revoked*”, such a statement is in line with what was said by Miriam Budiharjo which states “*Human rights are rights that humans have that are obtained and brought along with their birth or presence in people’s lives. It is considered that some of these rights are owned by him without distinction based on nation, race, religion or sex, and therefore universal. The basis of all human rights is that human beings have the opportunity to develop according to their talents and aspirations.*” (Yasin, 2015)

Based on the above opinion, it can be concluded that human rights are rights inherent in humans given by God that cannot be revoked or divided and must be protected by individuals and the state. In this case, the health of citizens is also a human right that must be guaranteed, including maternal health. At the same time, the protection of human rights against maternal emergencies is defined as an effort to protect the mother from various conditions that can threaten the safety of the mother’s life through a regulation.

Meanwhile, the regulation of human rights based on the 1945 Constitution emphasizes that to uphold and protect human rights following the principles of a democratic rule of law, the implementation of human rights is guaranteed, regulated, and outlined in laws and regulations. In this case, it is implemented through the stipulation of Law Number 39 of 1999 concerning Human Rights. The law regulates human rights in general in Indonesia. (Besar, 2011)

One proof of human rights guarantees in Indonesia can be seen from Law no. 39 of 1999 concerning Human Rights. The law regulates human rights that all Indonesian people must respect. Meanwhile, the fulfilment of these rights is the responsibility of the government. In this case, maternal emergencies are also the object of protecting human rights guaranteed by the state. To understand more deeply about this matter, an article is made that focuses on discussing how the protection of human rights against maternal emergencies is reviewed from Law no. 39 of 1999 concerning Human Rights.

B. Research Method

Legal research or legal research means carefully rediscovering legal materials or legal data to solve legal problems. (I Made Pasek Diantha, 2016) Legal research or legal research means carefully rediscovering legal materials or legal data to solve legal problems. (I Made Pasek Diantha, 2016) This study’s type of legal research is normative juridical, namely research conducted by researching only on library materials or secondary materials (Soerdjano Soekanto dan Sri Marmudji, 1994). This research is used to examine the protection of human rights against maternal emergencies in terms of Law Number 39 of 1999. The specification of this research is descriptive-analytical research. The data used is secondary data, including primary legal materials, secondary legal materials, and tertiary legal materials. The entire collected data will be processed and analyzed by systematically compiling the data, classified into theme patterns, categorized and classified, linked from one data to another, interpreted to understand the

meaning of the data in social situations, and carried out interpretations and perspectives of researchers after understanding the whole data quality. (Tina Asmarawati, 2014)

C. Discussion

It is emphasized that what is meant by legal protection for maternal emergencies is the protection of the rights of mothers whose lives are potentially threatened during pregnancy, childbirth, and the postpartum period. As a state of law characterized by the protection of human rights, Indonesia has regulations in human rights, namely Law Number 39 of 1999 concerning Human Rights. The law also regulates maternal rights. Based on the results of the analysis that has been carried out by Law Number 39 of 1999, it is found that four articles generally regulate maternal, namely Article 4, 9 paragraph (1), 41 paragraph (2), and 49 paragraph (2). In this case, the article is classified into 2 (two) parts. The explanation is as follows:

1. The first part (Article 4 and Article 9 paragraph 1)

Article 4 of Law Number 39 of 1999 concerning Human Rights reads:

“**The right to life**, the right not to be tortured, the right to personal freedom, thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person and equal before the law and the right not to be prosecuted based on retroactive law are human rights which cannot be reduced under any circumstances by anyone.”

While Article 9 paragraph (1) reads:

“Everyone **has the right to live**, maintain life and improve their standard of living”.

The article explicitly explains that the state guarantees the lives of its citizens, or in other words, every Indonesian citizen has the right to live. When it comes to maternal emergencies, it is known that the state guarantees and protects the right to life for mothers under any circumstances. The implementation of these facts can be seen in the government’s commitment to providing facilities and infrastructure for mothers. (Hesty et al., 2018)

The government’s efforts to prevent maternal deaths can also be seen from placing midwives in remote areas throughout Indonesia with a contract system. The policy was formed to increase maternal health services so that maternal emergencies can be prevented. In addition, health services that all levels of society can reach are also a form of state attention in guaranteeing the right to life for maternal mothers. (Susiana, 2019)

Meanwhile, the implementation of the right to life for mothers can be seen from the regulations passed by the government. One of these regulations is the Decree of the Minister of Health of the Republic of Indonesia Number HK.01.07/MENKES/320/2020 concerning Midwifery Professional Standards. The decree regulates clinical skills in midwifery practice which regulates the process of maternal care from before pregnancy to the postpartum period. This arrangement aims to maximize maternal health services so that the risk of death can be reduced.

2. The second part (Article 41 paragraph 2 and Article 49 paragraph 2)

Article 41 paragraph (2) of Law no. 39 of 1999 reads:

“Every person with disabilities, elderly people, **pregnant women**, and children, has the right to get **special facilities and treatment**.”

Article 49 paragraph (2) reads:

“Women have the right to get **special protection** in the performance of their work or profession against things that can threaten the safety and or **health of women’s reproductive functions.**”

The article explains that pregnant women and women, in general, are entitled to special protection and protection related to reproductive functions. More generally, what is meant here is that women have the right to health protection. Philosophically, health is an essential thing because health is an investment to increase human resources, especially the health of a pregnant woman.

The indicator of the success of maternal health protection can be seen from the maternal mortality rate. The lower the maternal mortality rate, the states right to obtain health protection can be said to be successful. However, the facts on the ground show the opposite. The maternal mortality rate in Indonesia is increasing every year. This shows that the level of maternal health in Indonesia is still low. However, what is noted here is that the government has established a regulation to guarantee the rights of pregnant women to receive special protection and treatment, as stated in the article.

However, the implementation of the protection of the right to health for pregnant women still needs to be reviewed. This is because there are still many discriminatory health services. Discriminatory health services can be seen from the case of unscrupulous health workers who distinguish between free services and services through fees guaranteed by the state through the Healthy Indonesia Card (KIS). In essence, maternal health has been regulated and protected human rights in Law No. 39 of 1999 on Human Rights. However, the problem is implementing the law, which still needs improvement to prevent maternal death or maternal emergencies cases and protect their human rights.

D. Closing

Legal protection for maternal emergencies is defined as the protection of human rights for mothers whose lives have the potential to threaten their lives during pregnancy, childbirth, and the puerperium. As a state of law characterized by the protection of human rights, Indonesia has regulations in human rights, namely Law Number 39 of 1999 concerning Human Rights. The law also regulates maternal rights. Based on the results of the analysis that has been carried out by Law Number 39 of 1999, it is found that four articles generally regulate maternal, namely Article 4, Article 9 paragraph (1), Article 41 paragraph (2), and Article 49 paragraph (2). In this case, the article is divided into two classifications. First, Article 4 and Article 9 paragraph (1) concerning the right to life. Second, Article 41 paragraph (2) and 49 paragraph (2) concerning women’s health rights.

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